Application Serial No. 10/073,571
Amendment and Request for Continued Examination dated August 30, 2005
Reply to Final Rejection of June 13, 2005

REMARKS

By this response, claims 1-26 are pending as a continuing application under 37 C.F.R. §1.114 (Request for Continued Examination (RCE)). Compared to prior versions, claims 1, 17, 18, 20 and 21 are amended while all others remain as originally or previously presented. To the extent the prior art remains relevant, these remarks address the merits of the Final Office Action mailed June 13, 2005.

According to the Examiner, all claims stand rejected under 35 U.S.C. §112 as indefinite for Applicant's modifying the term "end of persistence" with the phrase "regardless of whether the peripheral device is connected to the computing device." According to the Examiner, the present state of the claims fail because "the applicant attempts to change the scope of [the] . . . 'end of persistence'" as now meaning "something different, e.g., the computing device now must be able to handle situations where a peripheral device is still connected to the computing device and any form of disconnection event occurs." *6-13-2005, Final Office Action, p. 3, 2nd ¶.* Heretofore, the Examiner viewed the term "end of persistence" as meaning "any event that causes the computing device to change its current operation, such as the physical disconnection of a peripheral device." *6-13-2005, Final Office Action, p. 3, 2nd ¶.* In this regard, he consulted extrinsic evidence in the form of a dictionary (Merriam-Webster's Collegiate Dictionary, Tenth Edition) to supply a definition for the word "persistence" as meaning "continuing without change in function of structure." *6-13-2005, Final Office Action, p. 2, 2nd ¶.*

The Applicant submits, however, they have never changed the meaning or usage of the words "end of persistence." Rather, the Applicant stands by its usage and "end of persistence" is attributable during any of the following scenarios: "reboot, login, a specified time, an elapsed period of time, after X print jobs, expiration of account balance, forever, etc." *Applicant's Specification, p. 8, ll. 20-21.* In addition, the end of persistence "might be

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selected," perhaps as from "a list of options;" *Applicant's Specification, p. 8, ll. 18-19*; and/or done so "by an administrator of the peripheral device, a user of the computing device, or by default." *Applicant's Specification, p. 8, ll. 22-23.* To this end, the Applicant's specification clearly supports the passage of time, for example, as one reason for removing support information at the end of persistence. In turn, support exists for "receiving an indication of an end of persistence" scenario regardless of whether the peripheral and computing device are or were ever connected. Bear in mind, the instant invention does not indiscriminately remove or uninstall drivers, for example, just because the peripheral device and computing device are disconnected as Kanojia teaches. It also does not indiscriminately add or install them just because the peripheral device and computing device are connected and a plug and play string is found or detected. Rather, the present invention appreciates the computing device and peripheral device may likely have a "transient in nature" relationship (*Applicant's Specification, page 1, last paragraph*), but "removing support information" only occurs in the pending claims (1-26) upon design and does so "fully automatically" based on "detection" of the event related to the end of persistence. Windows 2000 Quick Fixes, as described more below, removes peripheral drivers cumbersomely and manually upon user initiation at a time deemed relevant by the user.

A further problem with the Examiner's §112 analysis is that he seems to exalt extrinsic evidence over intrinsic evidence and conform it to fit his own viewpoint of what he thinks the various claim terms should mean. Both techniques, however, are wrong as a matter of law. As the court of Appeals for the Federal Circuit recently stressed, the proper analysis in ascertaining the meaning of the claim words is to view the usage of the words in the context of the specification, especially from the viewpoint of the ordinarily skilled artisan in the relevant art at the time of filing. *See, Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321, 2005 WL 1620331 at *5 (Fed. Cir. 2005) (en banc) (citing *Innova/Pure*

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Water, Inc. v. Safari Water Filtration Sys., Inc., 381 F.3d 1111, 1116 (Fed. Cir. 2004)); *Rexnord Corp. v. Laitram Corp.*, 274 F.3d 1336, 1342 (Fed. Cir. 2001). Indeed, "[t]he inquiry into how a person of ordinary skill in the art understands a claim term provides an objective baseline from which to begin claim interpretation." *Phillips*, 2005 WL 1620331 *5. "Importantly, the person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification." *Id.*

While, resort to extrinsic evidence, such as dictionaries, encyclopedias and treatises, are valid methodologies to arrive at a meaning of a claim term, such as previously accomplished under the *Texas Digital* line of cases *(Texas Digital systems, Inc. v. Telegenix, Inc.*, 308 F.3d 1193 (Fed. Cir. 2002)), it is not valid if the extrinsic evidence contradicts the usage found in or ascertained by a reading of the patent documents [e.g., the intrinsic evidence]. *Phillips*, 2005 WL 1620331 *___, (citing to *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1585 (Fed. Cir. 1996)). It is certainly never a proper claim construction technique to substitute the Examiner's viewpoint over the usage of the words in context of the specification. Reconsideration is, thus, respectfully requested.

Under 35 U.S.C. §103(a), the Examiner rejects claims 1-9 and 12-26 as obvious in view of the combination of Kanojia et al., U.S. 6,714,992 and Windows 2000 Quick Fixes. In this regard, the Examiner states Kanojia does not expressly teach receiving an indication of an end of persistence "regardless of whether the peripheral device is connected to the computing device," *6-13-2005, Final Office Action, p. 4, 3rd ¶*, but believes a "user obviously may want to remove a peripheral device [with Windows 2000 Quick Fixes technology] if it is not frequently used, has hardware failures, taking up valuable hardware/software resources . . . etc." *6-13-2005, Final Office Action, p. 5, 2nd full ¶*.

The Applicant agrees the Kanojia does not teach receipt of an indication end of

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persistence regardless of whether the peripheral device is connected to its attendant computing device. As for Windows 2000 Quick Fixes remedying the deficiency, it unambiguously requires removal of peripheral device drivers, for example, via manual user manipulation at a time when removal is desired. For instance, when a user decides they want to uninstall a peripheral device driver, the user initiates various Wizards, makes appropriate selections in the Wizards and clicks/advances through a variety of Wizard questions/pages before uninstallation of the driver occurs. This, at best, is cumbersome.

In contrast, the instant invention requires the "fully automatic" removal of support information of the peripheral device based on a step of detection of an event related to the end of persistence. It gains advantage over prior art manual systems because, upon the "detection"of the event related to the end of persistence, the computing device "fully automatically" removes peripheral device support information and the user is not burdened or bothered.

Further, one instance of the Applicant's invention relates to an event of the end of persistence as part of an embedded instruction to invoke a plug-in, *Figure 5 and corresponding written description page 11, last paragraph - page 12, first full paragraph*, including a volatile date and time. The "monitoring" step in claim 22 then includes "assessing" whether the volatile date and time has been reached and, if so, then "removing support information associated with the peripheral device." Otherwise, if the volatile date and time has not been reached, the support information associated with the peripheral device is "not" removed. Nowhere, it is respectfully submitted, do Kanojia or Windows 2000 Quick Fixes, alone or in combination, anticipate or render this methodology obvious. Namely, Kanojia rids itself of joy stick drivers upon disconnection of the joy stick from the computing device. Windows 2000 Quick Fixes, on the other hand, rids itself of drivers upon users deciding the time is right to do so and such is accomplished by manual manipulation of

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various screens of an uninstallation Wizard.

In claims 23-26, the instant invention distinguishes itself from Kanojia and Windows 2000 Quick Fixes by requiring the "setting" of the end of persistence, including: "invoking a plugin" (claim 24); performing it "during installation" of the peripheral device on the computing device (claim 25); and "wherein the installing further includes selecting of a peripheral device icon" (claim 26). To the Examiner's point of claims 22-26 that Windows 2000 Quick Fixes teaches a "user intent to remove/disable the [peripheral] device dependent on various reasons the user may have" *(6-13-2005, Final Office Action, p. 7, 2nd ¶ (No. 18))*, the Applicant does not disagree. The Applicant does, however, question the relevance of the statement. Namely, users of Windows 2000 Quick Fixes removing peripheral device drivers, for example, simply because they want to remove them, relates not at all to a claim requiring the affirmative act of "setting the end of persistence" such as by invoking a plugin, performing it during installation including or not selecting a peripheral device icon. To be sure, the claim does not recite removing peripheral device drivers at a time when the user wants them to be removed. Rather, claim 25 as representative, requires installing a peripheral device on a computing device and, at such time, setting the end of persistence which, upon its later detection, will fully automatically remove support information of the peripheral device. Nowhere does Kanojia or Windows 2000 Quick Fixes state or imply such methodology.

The other dependent claims (2-16 and 19) are advanced as being patentable over the prior art as dependent upon an independent claim having the above generally-discussed limitations of occurring "regardless of whether the peripheral device is connected to the computing device" and "fully automatically" removing support information. Kanojia installs or uninstalls drivers based upon detected connection or disconnection of the peripheral device and such is rote. Kanojia is then unable to install drivers if peripheral devices are

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disconnected or, conversely, uninstall them if the peripheral devices remain connected. Windows 2000 Quick Fixes, on the other hand, installs or uninstalls drivers at a time based upon a user's given desire and does so by complete manual user-manipulation of various screens/pages of a Wizard. The instant invention, as evidenced by the above-quoted limitations, overcomes both of these problems.

Even further, claims 2, 3 and 4 require the storing of an indicator of the end of persistence. Claim 3 even requires it in a database of configuration settings. Claim 4 then requires the monitoring of the database of configuration settings.

Claims 5 and 6 both require the running of an event monitor thread. Claim 6 requires starting it "after booting" the computing device.

Claim 7 requires actually installing the peripheral device on the computing device prior to monitoring for the event related to the end of persistence. What the Examiner should appreciate about this claim, is that parent claim, claim 1, is broader in scope. Thus, claim 1 allows for the scenario of monitoring for events related to the end of persistence even before the peripheral device is installed on the computing device. In Kanojia, however, installing and uninstalling drivers is rote based upon connection and disconnection, respectively. In Windows 2000 Quick Fixes uninstalling can only occur after installing. Neither, then, has means for any such monitoring before installing. In turn, claims 8-16 all depend directly or indirectly from claim 7 and are patentable for the reasons related to claim 7.

Nonetheless, claims 8-16 are also patentable of their own merit. They all further define installation of the peripheral device on the computing device. In some instances, this relates to "providing a representation of a physical layout" of the peripheral device and "receiving an indication via the representation." *Claim 8*. In claim 9, providing the representation occurs via "accessing the representation via a browser application." In claims 12 and 13, retrieving support information relates to "querying" second computing devices.

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Claims 14 and 15 relate to "receiving" a location of and "retrieving" appropriate support information and in what format this is acceptable. Claim 16 relates to "temporal status" of the support information. Claims 10 and 11, of course, have already been indicated as allowable. The Applicant, thus, thanks the Examiner for this.

The Applicant submits all claims are in a condition for allowance and requests a timely Notice of Allowance to be issued for same. *To the extent any fees are due beyond those expressly authorized in the accompanying transmittal forms for the Request for Continued Examination, the undersigned authorizes the deduction from Deposit Account No. 11-0978.* None are believed due, however, because the Applicant has paid the RCE filing fee under 37 C.F.R. §1.17(e).

Finally, the Applicant requests a change in the attorney document number of record. Namely, please replace 971-150 with 1363-010. The docket number changed when the most recent Power of Attorney went into effect.

Respectfully submitted,

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